



February 17, 2009

HOUSE BILL No. 1609

DIGEST OF HB 1609 (Updated February 11, 2009 5:37 pm - DI 69)

Citations Affected: IC 35-41; IC 35-42; noncode.

Synopsis: Battery on a utility worker. Makes battery on a utility worker engaged in the execution of the utility worker's official duty a Class D felony instead of a Class B misdemeanor if it results in bodily injury to the utility worker.

Effective: July 1, 2009.

**Soliday, Lawson L, Stevenson,
Moseley**

January 16, 2009, read first time and referred to Committee on Courts and Criminal Code.
February 16, 2009, amended, reported — Do Pass.

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HB 1609—LS 6327/DI 69+



February 17, 2009

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

HOUSE BILL No. 1609

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 35-41-1-26.9 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2009]: **Sec. 26.9. "Utility worker" means an**
4 **individual who is employed by or an independent contractor or an**
5 **employee of an independent contractor working on behalf of one**
6 **(1) of the following:**

- 7 (1) **A public utility (as defined in IC 8-1-2-1(a)).**
- 8 (2) **A municipally owned utility (as defined in IC 8-1-2-1(h)).**
- 9 (3) **A cable or satellite television company.**
- 10 (4) **A telecommunications carrier.**
- 11 (5) **An electric cooperative.**
- 12 (6) **A telephone cooperative.**
- 13 (7) **A nonprofit utility.**

14 SECTION 2. IC 35-42-2-1, AS AMENDED BY P.L.120-2008,
15 SECTION 93, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
16 JULY 1, 2009]: Sec. 1. (a) A person who knowingly or intentionally
17 touches another person in a rude, insolent, or angry manner commits

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battery, a Class B misdemeanor. However, the offense is:

(1) a Class A misdemeanor if:

(A) it results in bodily injury to any other person;

(B) it is committed against a law enforcement officer or against a person summoned and directed by the officer while the officer is engaged in the execution of the officer's official duty;

(C) it is committed against an employee of a penal facility or a juvenile detention facility (as defined in IC 31-9-2-71) while the employee is engaged in the execution of the employee's official duty;

(D) it is committed against a firefighter (as defined in IC 9-18-34-1) while the firefighter is engaged in the execution of the firefighter's official duty;

(E) it is committed against a community policing volunteer:

(i) while the volunteer is performing the duties described in IC 35-41-1-4.7; or

(ii) because the person is a community policing volunteer; or

(F) it is committed against the state chemist or the state chemist's agent while the state chemist or the state chemist's agent is performing a duty under IC 15-16-5;

(2) a Class D felony if it results in bodily injury to:

(A) a law enforcement officer or a person summoned and directed by a law enforcement officer while the officer is engaged in the execution of the officer's official duty;

(B) a person less than fourteen (14) years of age and is committed by a person at least eighteen (18) years of age;

(C) a person of any age who has a mental or physical disability and is committed by a person having the care of the person with a mental or physical disability, whether the care is assumed voluntarily or because of a legal obligation;

(D) the other person and the person who commits the battery was previously convicted of a battery in which the victim was the other person;

(E) an endangered adult (as defined in IC 12-10-3-2);

(F) an employee of the department of correction while the employee is engaged in the execution of the employee's official duty;

(G) an employee of a school corporation while the employee is engaged in the execution of the employee's official duty;

(H) a correctional professional while the correctional

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- 1 professional is engaged in the execution of the correctional
 2 professional's official duty;
- 3 (I) a person who is a health care provider (as defined in
 4 IC 16-18-2-163) while the health care provider is engaged in
 5 the execution of the health care provider's official duty;
- 6 (J) an employee of a penal facility or a juvenile detention
 7 facility (as defined in IC 31-9-2-71) while the employee is
 8 engaged in the execution of the employee's official duty;
- 9 (K) a firefighter (as defined in IC 9-18-34-1) while the
 10 firefighter is engaged in the execution of the firefighter's
 11 official duty;
- 12 (L) a community policing volunteer:
 13 (i) while the volunteer is performing the duties described in
 14 IC 35-41-1-4.7; or
 15 (ii) because the person is a community policing volunteer;
 16 or
- 17 (M) a family or household member (as defined in
 18 IC 35-41-1-10.6) if the person who committed the offense:
 19 (i) is at least eighteen (18) years of age; and
 20 (ii) committed the offense in the physical presence of a child
 21 less than sixteen (16) years of age, knowing that the child
 22 was present and might be able to see or hear the offense; or
- 23 **(N) a utility worker while the utility worker is engaged in**
 24 **the execution of the utility worker's official duty;**
- 25 (3) a Class C felony if it results in serious bodily injury to any
 26 other person or if it is committed by means of a deadly weapon;
- 27 (4) a Class B felony if it results in serious bodily injury to a
 28 person less than fourteen (14) years of age and is committed by a
 29 person at least eighteen (18) years of age;
- 30 (5) a Class A felony if it results in the death of a person less than
 31 fourteen (14) years of age and is committed by a person at least
 32 eighteen (18) years of age;
- 33 (6) a Class C felony if it results in serious bodily injury to an
 34 endangered adult (as defined in IC 12-10-3-2);
- 35 (7) a Class B felony if it results in the death of an endangered
 36 adult (as defined in IC 12-10-3-2); and
- 37 (8) a Class C felony if it results in bodily injury to a pregnant
 38 woman and the person knew the woman was pregnant.
- 39 (b) For purposes of this section:
- 40 (1) "law enforcement officer" includes an alcoholic beverage
 41 enforcement officer; and
- 42 (2) "correctional professional" means a:

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- 1 (A) probation officer;
- 2 (B) parole officer;
- 3 (C) community corrections worker; or
- 4 (D) home detention officer.

5 SECTION 3. [EFFECTIVE JULY 1, 2009] **IC 35-42-2-1(a)(2)(N),**
6 **as added by this act, applies only to crimes committed after June**
7 **30, 2009.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1609, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 1 through 14.

Page 3, line 36, after "offense;" insert "**or**".

Page 3, delete lines 37 through 39.

Page 3, line 40, delete "(O)" and insert "**(N)**".

Page 4, line 22, after "IC 35-42-2-1(a)(2)(N)" insert ",".

Page 4, line 23, delete "and IC 35-42-2-1(a)(2)(O), both".

Page 4, line 23, delete "apply" and insert "**applies**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1609 as introduced.)

PIERCE, Chair

Committee Vote: yeas 9, nays 2.

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